

# ANALYSIS OF ORIGINAL BILL

## Franchise Tax Board

Author: Kehoe Analyst: Kristina E. North Bill Number: AB 361  
Related Bills: See Legislative History Telephone: 845-6978 Introduced Date: February 16, 2001  
Attorney: Patrick Kusiak Sponsor: Gateway Computers

**SUBJECT:** Corporate Computer Technology and Equipment Contributions for Education Deduction/Conformity

### SUMMARY

This bill would allow corporations to claim a larger than ordinary deduction for the contribution of computer technology and equipment to educational institutions.

### PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to encourage the donation of computer technology and equipment to educational institutions.

### EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately upon enactment. It would apply to taxable years beginning on or after January 1, 2001.

### POSITION

Pending.

### ANALYSIS

#### FEDERAL/STATE LAW

**Existing federal and state laws** allow a corporate taxpayer to claim a deduction for a charitable contribution made to a tax exempt organization, including a federal, state, or local government entity and nonprofit groups that are organized and operated exclusively for religious, charitable, educational, scientific, or literary purposes, to foster amateur sports competition, or for the prevention of cruelty to children or animals. A charitable contribution includes gifts to, or for the use of, tax exempt organizations. These gifts may be in the form of money or property. If property is donated as a charitable contribution, the taxpayer generally must determine the property's fair market value. However, if an item is valued over \$5,000, an appraisal is required to verify its value.

Under **federal and state laws**, the charitable contribution may be reduced depending on the type of contributed property, the organization to which the property is contributed, and the income of the taxpayer. Generally, the deduction for contributed property that would have resulted in ordinary income being recognized had the property been sold is limited to the property's basis. The charitable contribution deduction for corporations is generally limited to 10% of their taxable income (computed without regard to the contributions) for the taxable year.

Board Position:

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<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Gerald H. Goldberg

05/25/01

**Current federal law** provides augmented deductions for certain corporate contributions of inventory property, including corporate contributions of scientific equipment constructed by the taxpayer, provided the original use of such donated equipment is by the donee for research or research training in the United States for the physical or biological sciences. Under these special rules, the amount of the augmented deduction available to a corporation making a qualified contribution is equal to its basis in the donated property plus one-half of the amount of ordinary income that would have been realized if the property had been sold. However, the augmented deduction cannot exceed twice the basis of the donated property. S corporations are not eligible donors for purposes of these special rules. Eligible recipients are limited to post-secondary educational institutions, scientific research organizations, and certain other organizations that support scientific research.

The **federal Taxpayer Relief Act (TRA) of 1997** expanded the augmented deduction to include contributions of computer technology and equipment by a C corporation to an educational organization or to a tax exempt entity that is organized primarily to support elementary and secondary education. The federal Consolidated Appropriations Act - FY 2001 extended this augmented deduction through 2003 and expanded the deduction to include donations to public libraries.

**State law** allowed augmented deductions to corporations for the contribution of qualified research property made between 1983 and 1994, and contributions to qualified elementary or secondary educational institutions made in taxable years beginning before January 1, 2000. Current **state law** does not conform to the federal law described above relating to the augmented charitable contribution deduction. State law only allows the corporation's adjusted basis in the property to be deducted as a charitable contribution for taxable years beginning on or after January 1, 2000.

### THIS BILL

Under the Bank and Corporation Tax Law (B&CTL), this bill would partially conform to federal law by authorizing taxpayers to claim an augmented charitable contribution deduction for contributing computer technology and equipment to educational institutions, whether such institution is located in or out of California. This bill specifies that the federal contribution termination date of January 1, 2004, shall not apply, thus making the deduction permanent. However, this bill would not conform to the federal augmented deduction for charitable contributions made to public libraries in the federal Consolidated Appropriations Act - FY 2001.

### IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

### TECHNICAL CONSIDERATIONS

The bill's language contains several technical errors. Since the existing B&CTL does not conform to the current version of Internal Revenue Code Section 170, the language referencing 170(e)(6) needs modification. Also, the bill could be more simply written as a modification to B&CTL Section 24357.9 rather than as a stand-alone deduction. If the author prefers a stand-alone section, the bill's language could be moved from Section 24343.1 closer to Sections 24357 through 24359.1 to be located near other contribution deductions under the B&CTL. Grouping similar deductions together helps ease reading of the Revenue and Taxation Code. Department staff is available to assist with technical amendments if requested.

## LEGISLATIVE HISTORY

**AB 2219** (Battin, 1997/1998) and **SB 1985** (O'Connell, 1997/1998) would have partially conformed to federal law to allow an augmented deduction for C corporation contributions of computer technology or equipment to qualified elementary or secondary educational institutions. **AB 2219** failed passage out of Assembly Appropriations. **SB 1985** failed passage out of Senate Appropriations.

**SB 405** (Haynes, 1995/1996) would have allowed a credit of \$50 for each qualified computer contributed by a taxpayer to an educational institution. To make the contribution, the taxpayer would transfer the computer to a refurbisher or facilitator for later placement in a classroom. This bill failed passage out of Senate Appropriations.

## OTHER STATES' INFORMATION

Review of *Illinois, Massachusetts, Michigan, Minnesota, and New York* laws found no comparable tax deduction. These states were reviewed because of the similarities between California income tax laws and their tax laws.

## FISCAL IMPACT

This bill would not significantly impact the department's costs.

## ECONOMIC IMPACT

### Tax Revenue Estimate

Revenue losses under the B&CT law are projected to be as follows:

Estimated Revenue Impact of AB 361 As Introduced February 16, 2001 Income Years Beginning After 12/31/2000 ( In \$Millions )			
Fiscal Years	2001/2002	2002/2003	2003/2004
Revenue Impact (Rounded)	-\$6	-\$4	-\$2

Any possible changes in employment, personal income, or gross state product that might result from this bill are not taken into account.

Estimates have been developed previously for this conformity item. State impacts above were based on federal estimates for this provision contained in H.R. 5662 Act of 2000 (Section 155).

## ARGUMENTS/POLICY CONCERNS

This bill does not limit the contribution to educational institutions located in California, allowing C corporations to donate computer technology and equipment to educational institutions in other states and claim the augmented deduction for California franchise and income tax purposes.

**LEGISLATIVE STAFF CONTACT**

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